



# Financial Institutions and Iowa's Unclaimed Property Reporting Procedures

Financial Institutions (FI's) hold a variety of products and services which have specific procedures related to unclaimed property. We have developed this industry handbook in hopes of guiding FI's through the process.

## Table of Contents

<b>Code Applications to Financial Institutions</b>	<b>1</b>
<b>Terms and Phrases That Pertain to Financial Institutions</b>	<b>2</b>
<b>Accounts</b>	<b>3</b>
<b>Inactivity fees, other service charges, and cessation of interest</b>	<b>4</b>
<b>Official Checks, Money Orders, and Travelers' Checks</b>	<b>6</b>
<b>Individual Retirement Arrangements (IRA's), Keoghs, and Other Savings Plans</b>	<b>6</b>
<b>Safe Deposit Box Contents</b>	<b>7</b>
<b>Corporate and Personal Trust</b>	<b>8</b>
<b>Financial Institution Business Operations</b>	<b>9</b>
<b>Internal Control</b>	<b>9</b>
<b>Due Diligence</b>	<b>10</b>
<b>Timeline for Reporting</b>	<b>11</b>
<b>Penalties and Interest for Late Reporting</b>	<b>12</b>
<b>VDA/Amnesty Program</b>	<b>12-13</b>



**Iowa Code Chapter 556, the Uniform Disposition of Unclaimed Property Act** (the Act), was initially enacted in 1967. The Act covers unclaimed intangible personal property of all types, including insurance benefits, utility deposits, stocks and bonds, and bank accounts. The Act's coverage of tangible property is limited to safe deposit box contents where contact has been lost with the owner.

## Iowa Code Chapter 556 and Iowa Administrative Code Chapter 781-9 Unclaimed Property and their Application to Financial Institutions

Code Section	Overview
556.1	Definitions
556.2	<ul style="list-style-type: none"> <li>Principal provision related to banking.</li> <li>Checking accounts, savings accounts, certificates of deposit, and safe deposit box contents.</li> <li>Due diligence and what constitutes contact.</li> </ul>
556.2A	Traveler's Checks and Money Orders
556.2B	Checks, Drafts, and Similar Instruments Issued or Certified by Financial Institutions
556.5	Stocks and Other Intangible Interests in Business Associations
556.7	Property Held by Fiduciaries
556.9	Misc. Personal property held for another person, wages, and gift certificates
556.11	Report of Abandoned Property
556.13	Payment of Delivery of Abandoned Property
556.14	Relief from Liability by Payment of Delivery
556.25	Interest and Penalties
<b>Iowa Administrative Code (IAC) Chapter 781-9 Unclaimed Property</b>	
781-9.2	Forms
781-9.3	Definitions
781-9.4	Dormancy Fees and Related Charges
781-9.5	Reporting and Delivering of Safe Deposit Box Contents
781-9.6	Reporting of IRA's and other Retirement Accounts
781-9.7	Reporting of CD's and Other Timed Deposits
781-9.8	Indication of Interest by an owner in a CD or other Timed Deposit
781-9.10	Information Required to be included in a report
781-9.12	Due Diligence
781-9.13	Reporting Aggregate Amounts to the division



# Terms and Phrases That Pertain to Financial Institutions:

**Aggregate property** means individual items of intangible property with a value of less than \$50 each or where the owner is unknown, which have been “aggregated” by a holder and reported and delivered to the state in a lump sum.

**Dormancy fee** means a service charge, dormancy charge, inactive account fee, minimum balance fee, maintenance fee, unclaimed property fee, or any other charge that result in the reduction of an account balance or property value, which is not directly related to a transaction initiated by an owner.

**Dormancy period** means the statutorily-specified span of time after which an owner’s failure to indicate an interest in property will result in the property being presumed abandoned and subject to reporting and delivery to the state.

**Due diligence** means the efforts required to be undertaken by a holder of unclaimed property to find the rightful owner of such property before the property is delivered to the state.

**Inactive or dormant** means when an account or instrument has gone without owner contact or activity for a period of time.

**Positive Owner Contact** is when an account or instrument has one of the following actions occur:

- Deposit
- Withdrawal
- Correspondence from the owner in writing, including email
- Updated contact information (address, phone, email) provided by the owner
- Positive contact on a related account from the same owner

# Accounts

## Deposit Accounts

Each year, most, if not all financial institutions will be holding abandoned deposit (checking, share draft, savings, and similar) accounts. Abandoned accounts arise when the depositor has had no contact with the financial institution for three years. Generally speaking, "contact" is an action by a depositor which indicates that they are aware of the existence of the account and would like the account to not be presumed abandoned. Iowa Code Section 556.2(1) describes the specific types of depositor contact which would negate the presumption of account abandonment:

1. The depositor taking actions to increase or decrease the amount of a deposit (note: the automatic posting of interest or assessment of a dormancy fee does not constitute "contact" for unclaimed property purposes).
2. The presentation of a passbook for the crediting of interest.
3. Depositor communication with the financial institution (this can include written or electronic correspondence from the depositor, or a telephonic or other conversation with the financial institution provided that a record is made concerning the date and specifics of the conversation).
4. Response to a due diligence letter from the FI.

In addition to these types of direct contact with a depositor Iowa Code Section 556.2(2) provides two other situations where a deposit account will not be deemed abandoned:

1. Where the depositor has another account with the financial institution, and during the preceding three years the depositor has been in contact with the financial institution with respect to the other account; or
2. Where the financial institution has sent mailings to the depositor during the preceding three years, and the mail has **not** been returned by the post office as undeliverable.

It is important to note that the "non-return of mail as contact" provision has several specific requirements. First, the financial institution must have actually made a mailing or mailings to the depositor (this **would** include the mailing of account statements). Second, the mailing or mailings must have been sent via first class mail. Third, the mailing envelope(s) must have included on its face a notation for address correction. Fourth, the financial institution must maintain a documented system for capturing and recording return mail.



When mailings made to a depositor are returned by the post office as undeliverable and the financial institution is unable to determine the current whereabouts of the depositor, the date of last contact (for "non-return of mail as contact" purposes) is the date of the last mailing that was successfully delivered to the depositor, and not the date of the initial item of return mail.

### **Time Deposit Accounts**

Special rules apply to determining whether a time deposit (certificate of deposit or similar interest-bearing deposit with a defined maturity) are set forth in Iowa Code Section 556.2(3) and IAC 781-9.8. In short, there must have been contact with the depositor of the same nature as described in the Deposit Accounts section.

- If the time deposit does not renew, the abandonment period commences to run as of the date of maturity. If in the three years following maturity there is no owner contact, the deposit balance is reportable.
- If the time deposit automatically renews, the abandonment period begins to run at the conclusion of the last depositor-approved rollover period (if there is no contact with the owner).
- If, at the time of required reporting a time deposit it has not yet matured, the report period is extended until the time when no penalty or forfeiture would result.
- Additional requirements apply to IRAs in the form of time deposits; see the IRA section of this guide.

Iowa Code Chapter 556 recognizes the "automatic" renewal of time deposits, but a notice of renewal must be sent to the depositor by the financial institution via first class mail; the envelope in which the notice of renewal is sent must include on its face a notation for address correction; and the financial institution must maintain a system for tracking and documenting return mail.

## **Inactivity fees, other service charges, and cessation of interest**

Iowa Code Chapter 556 permits the imposition of inactivity fees and other service charges on unclaimed property. However, any such charges must be "lawful."

- There must be an enforceable, written contract between a depositor and the financial institution. The contract must have clear terms allowing for inactivity or other charges, or ceasing of interest. The contract must clearly define what constitutes inactivity and when the charge will commence, or when interest will cease. If the contract is amended so as to create or modify inactivity charges, a notice must be sent to all accountholders to make them aware of the modification.



- The service charge policy may not be routinely waived, or imposed only against those accounts transferred to the state. If owners responding to due diligence notices (see the due diligence section of this guide) have previously imposed charges waived, the underlying fees do not represent a "lawful charge."
- Common financial institution practices that frequently result in a finding by the Office of the State Treasurer that inactivity fees, other charges, or cessation of interest was not lawful:
  - a. Inactivity or dormancy was not clearly defined, or varied between the depositor agreement, fee schedule and actual written procedure;
  - b. Contract terms were not readily available or were concealed in an inconspicuous manner;
  - c. An "escheat fee" was included in a fee schedule without definition or parameters as to when it would be imposed;
  - d. Inactivity fees or other charges were created through amendment of depositor agreement without sufficient notice provided to customers;
  - e. Inactivity fees or other charges are routinely waived upon request of the customer or "reactivation" of the account;
  - f. The FI routinely pays the owner inactivity fees or other deducted charges after the owner is successfully located by the state.

### **Cashier's checks and other negotiable instruments**

While Iowa Code Section 556.2B(2) permits the imposition of a service charge for the non-presentment of a negotiable instrument issued by a financial institution, there must be a valid, enforceable contract between the financial institution and the owner. Because in many instances the payee of the check (who is the apparent owner) does not have an account relationship with the financial institution, there is no contractual relationship between the payee and the financial institution and thus no basis for a "lawful charge." Even where the payee of the check is a customer of the financial institution, as a general matter there is frequently insufficient disclosure of a fee for an unrepresented check to support a "lawful charge."

## Official Checks, Money Orders, and Travelers' Checks

Uncashed official checks, such as cashiers' checks, money orders or certified checks, are presumed abandoned three years after they are issued or from the last positive owner contact. Unused travelers' checks are abandoned fifteen years from the issue date or last positive owner contact.

In the case of cashier's checks and money order, there are two possible parties entitled to the funds. The most obvious is the payee. However, the remitter that provided the money to the bank to fund and issue the cashier's check/money order may be entitled. Whoever holds the actual instrument (the check) is the owner. For this reason, we ask that both the remitter and payee be reported.

Some financial institutions offer negotiable instruments drawn on another institution. Teller's check should be reported as outlined above.

Outstanding certified checks are reportable on their same basis as other negotiable instruments on which a financial organization is directly liable.

## Individual Retirement Arrangements (IRAs), Keoghs, and Other Savings Plans

An IRA is reportable as unclaimed property if the owner has failed to take a distribution as required by either the agreement governing the account or the Internal Revenue Code. While generally an IRA owner must take a distribution no later than the year following the owner turning age 70.5, other distribution rules may be applicable including, but not limited to, the death of the owner. The abandonment period is three years, and runs from the required beginning date of distributions.

A distribution check made from an IRA is reportable if it is not presented for payment by the owner within three years of the date of issue.

In reporting unclaimed IRAs, FIs are required to include, to the extent available, the name, address, and social security number of all beneficiaries.





### **Roth IRA**

We recognize that, while the Roth IRA is not subject to the mandatory distribution rules during the original owner's lifetime, confusion may none the less exist among both the public and the holder community as to the treatment of this product with respect to the Unclaimed Property Law. For the purpose of consistency, our office will not penalize reporting organizations for treating the Roth IRA in the same manner as the traditional IRA and reporting them in the year the owner reaches the age of 70 ½.

## **Safe Deposit Box Contents**

All tangible and intangible property held in a safe deposit box (SDB) is abandoned three years after the lease or rental period has expired. The detailed SDB reporting is included with November report. The treasurer's office will notify you when to remit and arrange delivery of the contents.

- Unclaimed safe deposit box contents and other property held in safekeeping are to be reported by November 1.
- All contents must be reported as held.
- Unpaid rental fees, lock drilling, and other charges may not be offset against safekeeping items.
- A separate report must be filed for safekeeping items; do not commingle safekeeping items and intangible property.
- Electronic reporting of safekeeping is strongly requested. This will streamline the process and ensure data integrity.
- The more accurate and detailed the report, the more readily the contents can be inventoried and reconciled. To avoid discrepancies and questions, please identify all safekeeping in clear, concise manner. See examples below:
  - Like contents are not required to be individually categorized and can be grouped (16 silver colored forks, 12 gold colored bracelets, 5 1918 dimes).
  - Cash/Coin need to be separated out (12 wheat pennies, 5 buffalo nickels, 20 Mexican pesos, 40 nickels, 10-\$1.00 bills, 1 coin wrapper containing 50 US pennies 1918-1964)
  - Never assume the value of an item. Describe the item to ensure proper inventory comparison by the treasurer's office (6 gold colored necklaces, 1 gold colored pocket watch, 1 gold colored ring with 5 clear stones, 1 pair screw back earrings with clear red stones).
  - Miscellaneous paperwork of no value can be lumped together (examples are receipts, letters, tax documents, car titles, empty envelopes etc).
  - The following paperwork should be listed out include: wills, insurance policies, birth certificates, and abstracts.
  - Securities should be described: American Company Certificate #ABC 600 shares registered to John Doe.
  - Savings bonds should be described: \$50 US Series E Savings Bond #Q6349724P for John Doe.





## Miscellaneous Property Held by FI's –Gift cards, Corporate and Personal Trusts

There are several types of property that may be held in larger institution's trust departments such as uncashed checks, undeliverable stock, underlying shares, and unredeemed bonds and interest payments that after three years (In all cases except gift cards. Please see below the distinction between paper gift certificates and gift cards.), if there is no activity, are reportable as unclaimed property.

**Corporate Trust** Some financial institutions act as trustee under indenture, paying agent, or liquidating agent. Unclaimed interest, unredeemed principal, and other abandoned distributions are subject to reporting and delivery under Iowa Code Chapter 556. Where the financial institution is performing these services in a fiduciary capacity, the financial institution is responsible for the reporting and delivery of the unclaimed funds (see Iowa Code Section 556.7 for further explanation).

Iowa Code Section 556.5 covers the abandonment of corporate equity which pertains to a FI that handles stock transfer and other administrative matters. Note that if the whereabouts of a shareholder are unknown (as evidenced by the postal return of shareholder notifications), the shareholder's underlying interest is subject to abandonment, even where the company does not pay cash dividends.

**Gift Cards or Gift Certificates** issued by FIs are reportable as unclaimed property. Many FIs offer gift cards or similar stored value cards for customers.

The federal Credit Card Accountability and Responsibility and Disclosure Act of 2009 impacts gift cards (not gift certificates) issued subsequent to August 22, 2010. Gift card balances subject to reporting to the State of Iowa in 2013 relate to cards issued prior to the effective date of the CARD Act. The current abandonment period is three (3) years.

Beginning in 2014, the State Treasurer's Office will extend the time in which issuers of gift cards are permitted to report and deliver unused gift card balances. The reporting period will be five years from the date of issue of the card. This two years extension of time is being made so as to avoid potential conflicts between Iowa Code Chapter 556 and the federal CARD Act.

Non-electronic, paper gift certificates will continue to be subject to a three (3) year abandonment period in 2014 and beyond.



**Personal Trust** includes managing individual trust accounts and making payments from those trust funds. Personal trusts are reportable as unclaimed after three years of no contact with the owner.

**Equity** such as abandoned stock or dividends for corporations is often reported by trust departments. Unclaimed dividends and undelivered stock certificates are abandoned after three years. Underlying shares and dividends to date are abandoned when there are three years of uncashed dividends and no contact with the owner (see Iowa Code 556.5 for further explanation).

**Debt** in the form of unclaimed matured bonds, unredeemed bond coupons, or interest payments are considered abandoned three years from the date payable when held by a fiduciary or agent. If the fiduciary or agent plans to return the property to the issuer for reporting, they need to be aware that state and local governments report such items two years following the date payable. The bond trustee or paying agent has the option of reporting the unclaimed property or returning the items to the issuer. If you return the property to the issuer, please advise the issuer of the reporting requirements.

## Financial Institution Business Operations

Aside from managing depositor funds and providing other financial services, financial institutions also issue or otherwise owe payment to third parties for goods and services. Examples of such payments include wages, vendor payables, tax payments, and other disbursements. Unclaimed payments for goods and services are reportable if unclaimed for three years (one year if wages). Note, certain unclaimed payments issued by a financial institution for good and services may be subject to a business-to-business exemption under Iowa Code Chapter 556 (see Section 556.1 and I.A.C. 781--9.3).

## Internal Control

Abandoned property is often at risk of becoming embezzled or the victim of fraud. Putting in place strong internal controls safeguards members' accounts and prevents possible theft or misuse of funds. It is advisable to keep these accounts under dual control and implement other types of security measures. Examples of internal controls include:

- Require special authorization to view inactive accounts.
- Require dual authorizations for any transaction to an inactive account.
- Maintain unclaimed property reports in a locked file with limited access.
- Separate reactivation/refund and reporting functions.
- Hold periodic internal audits of inactive accounts and procedures.



## Due Diligence

Pursuant to Iowa Code Section 556.11(5), due diligence letters must be sent to owners on a timely basis. The Office of the State Treasurer considers the issuance of notices not more than 120 days or less than 60 days from the report due date of November 1 to represent timely due diligence. Accordingly, notices should be mailed between July 1 and August 31.

FI's are required to mail a letter by first class mail to the last known address of the owner of the property having a value of \$50.00 or more and all safe deposit box owners. Allow appropriate time for owner to respond. Send the letters not more than 120 days and not less than 60 days prior to the report date.

Due diligence letters should contain (556.2 provides sample text if that is preferred):

- Information about what will happen if no action is taken
- A statement that the state is acting as the custodian
- A deadline for contact
- Contact information for holder

If you receive a due diligence letter back as undeliverable with no forwarding address, that is considered as having preformed due diligence. Take note of the returned mail and submit the last known address to the treasurer's office. If mail is returned with a forwarding address, mail another letter to that address and note the new address in your records. For owners of property that are deceased, you must still mail out due diligence to try and reach heir(s) of the property.

The notice need only be sent to inactive accounts where the last known address of the depositor is known to be current (deliverable) and where the owner is known. In the cases of money orders, travelers' checks, cashier's checks, and gift certificates/cards, the owner is not always known and due diligence does not need to be performed.

An account is deemed active if the financial institution has made a mailing to the depositor during the preceding three years and the mailing has not been returned by the post office as undeliverable.

According to Iowa Code Chapter 556.2(1), if the financial institution has not had what constitutes as contact with the depositor and:

**Has not** made mailings to the depositor during the past three years

**OR**

**Does not** maintain procedures for the tracking of return mail

**THEN** mailing of a notice via certified mail to the depositor is required and the cost may be deducted from the property value. Situations such as this are generally rare.



Note that the owner due diligence parameters described above represent the minimum mandatory requirements; FI's are encouraged to perform outreach to owners of all inactive assets. Additionally, the earlier that owners are notified, the more likely that the owner will be successfully contacted and reactivate their account or claim the property.

### Failure to undertake owner notification

When the treasurer's office receives unclaimed property with a name and complete address, the first step taken is to mail a letter to the last known address (as required in Iowa Code 556.12). There should be limited instances in which the letters from the treasurer's office successfully reunite individuals with their property if the FI's sent out due diligence letters as instructed by law.

Iowa Code Section 556.11(5) provides that the Office of State Treasurer may impose a penalty on a financial institution or other holder that fails to perform due diligence.

*The treasurer of state may charge a holder that fails to timely exercise due diligence, as required in this subsection, **five dollars** for each name and address account reported if **thirty-five percent** or more of the accounts are claimed within the twenty-four months immediately following the filing of the holder report*

The Treasurer's Office would prefer the FIs perform due diligence as required prior to turning over unclaimed property rather than impose this fee in instances in which people can still be reached at the address on file.

It is the goal of the office that FI's perform sufficient outreach to inactive account holders and other owners so that the property can be claimed directly from the FI and not transferred to the state.

## Timeline for Reporting



## Penalties and Interest for Late Reporting

The treasurer is given the right to assess interest and penalties for late or negligent reporting in Iowa Code Section 556.25 as follows:

1. A person who fails to pay or deliver property within the time prescribed by this chapter shall pay the treasurer of state interest at the annual rate of ten percent on the property or value of the property from the date the property should have been paid or delivered but in no event prior to July 1, 1984.
2. A person who willfully fails to pay or deliver property to the treasurer of state as required under this chapter shall pay a civil penalty equal to twenty-five percent of the value of the property that should have been paid or delivered.
3. The interest or penalty or any part of the interest or penalty as imposed in subsection 1 or 2 may be waived or remitted by the treasurer of state if the person's failure to pay abandoned funds or deliver property is satisfactorily explained to the treasurer of state and if the failure has resulted from a mistake by the person in understanding or applying the law or the facts which require that person to pay abandoned funds or deliver property as provided in this chapter.

Our office works hard to ensure voluntary compliance rather than enforce the interest or penalties outlined in 556.25.

## Voluntary Disclosure Agreement (VDA) Program

Our office currently has a VDA program that is intended for businesses and other organizations with incomplete records, complex unclaimed property liabilities or special issues complicating the calculation of the amount of unclaimed property owed. Those who fall into this category will want to take advantage of the treasurer of state's voluntary disclosure program (VDA). Specific examples would include holders with missing, incomplete, or inaccurate records, as well as liabilities where there is a legitimate legal dispute as to the applicability of the unclaimed property law.

In order to be eligible for the VDA, a "VDA Application and Contract" must be completed and returned via email ([upreport@iowa.gov](mailto:upreport@iowa.gov)) or fax (515-281-6962) to the treasurer of state prior to reporting. The holder will receive notification of the status of the request via email to the address listed on the application.



## Amnesty Program until November 1, 2013

Our goal is to increase compliance and ultimately reunite more Iowans with their unclaimed property, therefore the treasurer of state has created an unclaimed property reporting amnesty program. Under this reporting amnesty, any business or other entity not already in compliance with Iowa Code Chapter 556 will not be assessed late reporting interest and penalties on past-due property that is reported and remitted this year.

In order to be eligible for amnesty from interest and penalties, a petition for late reporting amnesty must be completed and returned via email [upreport@iowa.gov](mailto:upreport@iowa.gov) or fax (515-281-6962) to the Treasurer of State prior to reporting. The holder will receive notification of the status of the petition via email to the address listed on the application. The report and remittance of past-due property must be received by the treasurer of state no later than November 1, 2013 regardless of amnesty status.